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SUBJECT: TAX AUTHORITY RAMPS UP TAX ENFORCEMENT AND MONEY
FLOWS IN

REF: CARACAS 01444

¶1. (SBU) Summary. The Bolivarian Republic of Venezuela, through its tax agency, has ramped up enforcement of Plan Zero Evasion (Evasion Cero) first announced in 2005. The Plan involves audits of company accounting procedures and violations include fines, closures and "voluntary payments" of taxes. The press has highlighted recent aggressive audit activity by the tax agency against emblematic U.S. brands MacDonald's and Pepsi, but many other Venezuelan and non-U.S. multinationals have also been targeted. Tax revenue has increased substantially, both from fines and increased compliance. Businesses continue to grapple with a murky tax code and selective, sometimes discriminatory, enforcement by the tax agency. End Summary.

BACKGROUND - PLAN EVASION CERO

¶2. (SBU) The Bolivarian Republic of Venezuela (BRV), through its tax authority, Servicio Nacional Integrado de Administracion Aduanera y Tributaria (Seniat), announced the Plan Evasion Cero (Plan Zero Evasion (the Plan) in 2005. The Plan is a tax collection program which involves sanctions, including business closure, fines and "voluntary payment" of taxes. Under the Plan, Seniat audits a company's books for compliance with Venezuela's tax code. The tax code is ill-defined and Seniat can arbitrarily penalize an enterprise for minor clerical errors, such as an incorrect date on an invoice. When found non-compliant, Seniat can impose a fine of one to several tributary units on an enterprise. (The current value of a tributary unit is 46 BsF or \$21.40 at the official exchange rate of 2.15 BsF to 1 USD). In addition, Seniat can (and routinely does) force the closure of the enterprise for several days. Besides these penalties, Seniat may also determine that a business has failed to pay the correct amount of tax due. In these instances, Seniat has allowed companies to "voluntarily pay" the disputed amount, often with no other sanctions. Seniat may also seize products from enterprises for violations of the tax code. Seizures of goods have focused on food stuffs, which are then donated to the consumer protection agency, which auctions the goods to the public with much fanfare.

RECENT HIGH PROFILE ACTIVITY

¶3. (SBU) Beginning in January 2008, Seniat stepped up efforts under the Plan and more recently seems to have ratcheted up its efforts again. Enforcement actions in the past weeks have been taken against such emblematic U.S. brands as MacDonald's and Pepsi. Seniat has, however, targeted other fast food service businesses (including

non-American franchises) and other sectors. In these instances, Seniat has fined each enterprise a small amount (ranging from 1,150 to 3,450 BsF, about \$535 to \$1,600) and closed their operations in Venezuela for a 2 or 3 day period.

Seniat has levied substantially higher "voluntary payments" on business operating in the tourism sector, private health care and gaming, ranging from 651,340 to 3,752,1000 BsF (approximately \$303,000 to \$1.7 million.) Most recently, on October 15, Seniat announced that Proctor & Gamble had failed to pay the proper amount of value added tax for 2005. Seniat determined that Proctor & Gamble must pay 7,718,299 BsF (approximately \$3.6 million) within the next 15 days to correct the underpayment of taxes.

HOW MUCH MONEY IS SENIAT TAKING IN?

¶4. (SBU) Statistics published on Seniat's website show that Seniat received no revenues from fines or "voluntary payment" of taxes during 2005 and 2006. Beginning in 2007, Seniat's records reflect revenue from fines and "voluntary payment" of taxes of 1.2 million BsF (approximately \$590,000.) For year to date September 2008, revenues for fines and "voluntary payments" total 1.38 million BsF (approximately \$643,000.) With the inclusion of the Proctor & Gamble fine, the BRV will increase receipts from the Plan by at least 52 percent in ¶2008. An added effect of greater enforcement has been the increase in overall tax revenue. In 2005, Seniat tax receipts totaled 32 billion BsF (approximately \$14.85 billion.) By 2007, this figure had grown to 56 billion BsF (approximately \$26 billion.) If the current rate of tax collection remains constant, tax revenue for 2008 should

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equal approximately 65 billion BsF (approximately \$30 billion.)

IMPACT ON BUSINESSES

¶5. (SBU) As seen above, Seniat enforcement actions have spurred business to pay their taxes at record levels. However, Seniat seems to enforce the tax code in an arbitrary manner, adding to the potential harassment a business may face in the daily conduct of its business. Anecdotal evidence suggests Seniat levies large "voluntary payments" of back taxes for low-level clerical mistakes, such as incorrect calculation of the value added tax and incorrect dates on receipts. In addition, as recently noted by a MacDonald's spokesperson, the tax code is murky and companies generally make a good faith effort to comply with accounting standards, only to learn otherwise during a Seniat audit. Heightened scrutiny of accounting procedures require additional business resources, negatively impacting the private sector. Also, vague language on required recordkeeping and format leaves considerable discretion to the inspector and opens the door to corruption.

COMMENT

¶6. (SBU) The heightened scrutiny by Seniat may merely be another election year tactic, designed to distract voters from the economic woes of the country or simply a means to encourage tax compliance and increase revenues. But, businesses, particularly high profile and emblematic companies, will continue to face greater scrutiny and perhaps corruption when dealing with the tax authorities, which serves as another disincentive for additional investment in Venezuela.
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